

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

IN RE K-V PHARMACEUTICAL) No. 4:11CV01816 AGF
COMPANY SECURITIES LITIGATION)

MEMORANDUM AND ORDER

This matter is before the court on Lead Plaintiff Lori Anderson’s motion (Doc. No. 83) to lift a bankruptcy stay as it applies to non-bankrupt individual Defendants Gregory Divis, Thomas McHugh, and Scott Goedeke. For the reasons set forth below, the motion shall be granted.


DISCUSSION

Upon the filing of a notice of bankruptcy of Defendant K-V Pharmaceutical Company, the Court entered a stay in this matter. As Lead Plaintiff now argues, a bankruptcy stay cannot be extended against non-debtors “unless a case involves unusual circumstances.” *See Ritchie Capital Mgmt., L.L.C. v. Jeffries*, 653 F.3d 755, 762 (8th Cir. 2011). “The unusual circumstances in which the bankruptcy court can stay cases against non-debtors are rare.” *Id.* Such circumstances “typically arise where there is such identity between the debtor and the third-party defendant that the debtor may be said to be the real party defendant and that a judgment against the third-party defendant will in effect be a judgment or finding against the debtor.” *Id.* (citation omitted). Here, Defendants have presented no unusual circumstances to extend the stay against the non-bankrupt individual Defendants.

Accordingly,

IT IS HEREBY ORDERED that Lead Plaintiff's motion to lift the stay entered on Defendants as it applies to the non-bankrupt individual Defendants is **GRANTED**.

IT IS FURTHER ORDERED that on or before February 22, 2013, the parties shall submit a Joint Scheduling Plan setting forth a pleading and briefing schedule that accords with the requirements of the Private Securities Litigation Reform Act of 1995 ("PSLRA"). The parties shall include in the Joint Scheduling Plan a timetable for holding a Scheduling Conference pursuant to Federal Rule of Civil Procedure 16.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 12th day of February, 2013.